

House Bill 1032 (AS PASSED HOUSE AND SENATE)

By: Representatives Lunsford of the 110th, Ralston of the 7th, Forster of the 3rd, England of the 108th, Ehrhart of the 36th, and others

A BILL TO BE ENTITLED

AN ACT

To amend Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to carry a pistol or revolver and temporary renewal permit, so as to provide that any person who is prohibited from possessing firearms pursuant to federal law may not be issued such a permit; to provide for a background check using the Federal Bureau of Investigation's National Instant Criminal Background Check System for permit issuances and renewals; to provide for a check of United States Immigration and Customs Enforcement records for noncitizen applicants; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-11-129 of the Official Code of Georgia Annotated, relating to license to carry a pistol or revolver and temporary renewal permit, is amended by striking in their entirety subsections (a) through (d) and inserting in lieu thereof the following:

"(a) Application for license or renewal license; term. The judge of the probate court of each county may, on application under oath and on payment of a fee of \$15.00, issue a license or renewal license valid for a period of five years to any person whose domicile is in that county or who is on active duty with the United States armed forces and who is not a domiciliary of this state but who either resides in that county or on a military reservation located in whole or in part in that county at the time of such application, which license or renewal license shall authorize that person to carry any pistol or revolver in any county of this state notwithstanding any change in that person's county of residence or state of domicile. Applicants shall submit the application for a license or renewal license to the judge of the probate court on forms prescribed and furnished free of charge to persons wishing to apply for the license or renewal license. An applicant who is not a United States citizen shall provide sufficient personal identifying data, including without limitation his or her place of birth and United States issued alien or admission number, as the Georgia

1 Bureau of Investigation may prescribe by rule or regulation. An applicant who is in
2 nonimmigrant status shall provide proof of his or her qualifications for an exception to the
3 federal firearm prohibition pursuant to 18 U.S.C. Section 922(y). Forms shall be designed
4 to elicit information from the applicant pertinent to his or her eligibility under this Code
5 section, including citizenship, but shall not require data which is nonpertinent or irrelevant
6 such as serial numbers or other identification capable of being used as a de facto
7 registration of firearms owned by the applicant. The Department of Public Safety shall
8 furnish application forms and license forms required by this Code section. The forms shall
9 be furnished to each judge of each probate court within the state at no cost.

10 (b) *Licensing exceptions.* No license or renewal license shall be granted to:

11 (1) Any person who is prohibited from possessing firearms pursuant to 18 U.S.C. Section
12 922;

13 (1.1) Any person under 21 years of age;

14 (2) Any person who is a fugitive from justice or against whom proceedings are pending
15 for any felony, forcible misdemeanor, or violation of Code Section 16-11-126, 16-11-127,
16 or 16-11-128 until such time as the proceedings are adjudicated;

17 (3) Any person who has been convicted of a felony by a court of this state or any other
18 state; by a court of the United States including its territories, possessions, and dominions;
19 or by a court of any foreign nation and has not been pardoned for such felony by the
20 President of the United States, the State Board of Pardons and Paroles, or the person or
21 agency empowered to grant pardons under the constitution or laws of such state or nation
22 or any person who has been convicted of a forcible misdemeanor and has not been free
23 of all restraint or supervision in connection therewith for at least five years or any person
24 who has been convicted of a violation of Code Section 16-11-126, 16-11-127, or
25 16-11-128 and has not been free of all restraint or supervision in connection therewith for
26 at least three years, immediately preceding the date of the application;

27 (4) Any individual who has been hospitalized as an inpatient in any mental hospital or
28 alcohol or drug treatment center within five years of the date of his or her application.
29 The probate judge may require any applicant to sign a waiver authorizing any mental
30 hospital or treatment center to inform the judge whether or not the applicant has been an
31 inpatient in any such facility in the last five years and authorizing the superintendent of
32 such facility to make to the judge a recommendation regarding whether a license to carry
33 a pistol or revolver should be issued. When such a waiver is required by the probate
34 judge, the applicant shall pay to the probate judge a fee of \$3.00 for reimbursement of the
35 cost of making such a report by the mental health hospital, alcohol or drug treatment
36 center, or the Department of Human Resources, which the probate judge shall remit to

the hospital, center, or department. The judge shall keep any such hospitalization or treatment information confidential. It shall be at the discretion of the probate judge, considering the circumstances surrounding the hospitalization and the recommendation of the superintendent of the hospital or treatment center where the individual was a patient, to issue the license or renewal license; ~~or~~

(5)(A) Any person, the provisions of paragraph (3) of this subsection notwithstanding, who has been convicted of an offense arising out of the unlawful manufacture, distribution, possession, or use of a controlled substance or other dangerous drug.

(B) As used in this paragraph, the term:

(i) 'Controlled substance' means any drug, substance, or immediate precursor included in the definition of controlled substances in paragraph (4) of Code Section 16-13-21.

(ii) 'Convicted' means a plea of guilty, a finding of guilt by a court of competent jurisdiction, the acceptance of a plea of nolo contendere, or the affording of first offender treatment by a court of competent jurisdiction irrespective of the pendency or availability of an appeal or an application for collateral relief.

(iii) 'Dangerous drug' means any drug defined as such in Code Section 16-13-71; or

(6) Any person not lawfully present in the United States.

(c) *Fingerprinting.*

~~(1)~~ Following completion of the application for a license or the renewal of a license, the judge of the probate court shall require the applicant to proceed to an appropriate law enforcement agency in the county with the completed application. The appropriate local law enforcement agency in each county shall then ~~make two sets of classifiable~~ capture the fingerprints of the applicant for a license or renewal license to carry a pistol or revolver, place the fingerprint required by subsection (f) of this Code section on a blank license form which has been furnished to the law enforcement agency by the judge of the probate court, and place the name of the applicant on the blank license form. The law enforcement agency shall be entitled to a fee of \$5.00 from the applicant for its services in connection with the application.

~~(2) In the case of each applicant who is applying for a license under this Code section for the first time, the judge of the probate court shall direct the law enforcement agency to transmit one set of the applicant's fingerprints to the Georgia Crime Information Center for a search of the Federal Bureau of Investigation records and an appropriate report. In such cases, the applicant shall submit an additional fee in an amount established by the Georgia Bureau of Investigation but not to exceed \$30.00 for a search of records of the~~

1 Federal Bureau of Investigation and an appropriate report, payable in such form as the
2 judge may direct, to cover the cost of the records search.

3 (3) ~~Applications for renewal of licenses issued under this Code section shall be made to~~
4 ~~the judge of the probate court of the county in which the applicant is domiciled or, if the~~
5 ~~applicant is a member of the United States armed forces, the county in which he or she~~
6 ~~resides or in which the military reservation on which the applicant resides is located in~~
7 ~~whole or in part at the time of making the renewal application. In the case of an applicant~~
8 ~~for a renewal of a license, the judge of the probate court may, in his or her discretion,~~
9 ~~direct that the local county law enforcement agency request a search of the criminal~~
10 ~~history file and wanted persons file of the Georgia Crime Information Center by computer~~
11 ~~access from that county in lieu of transmitting the application and forms.~~

12 (d) *Investigation of applicant; issuance of license; renewal.* ~~Each law enforcement~~
13 ~~agency, upon receiving such applications and obtaining such fingerprints, shall promptly~~
14 ~~conduct a thorough search of its records and records to which it has access and~~

15 (1) For both license applications and requests for license renewals, the judge of the
16 probate court shall direct the law enforcement agency to request a fingerprint based
17 criminal history records check from the Georgia Crime Information Center and Federal
18 Bureau of Investigation for purposes of determining the suitability of the applicant and
19 return an appropriate report to the judge of the probate court. Fingerprints shall be in
20 such form and of such quality as prescribed by the Georgia Crime Information Center and
21 under standards adopted by the Federal Bureau of Investigation. The Georgia Bureau of
22 Investigation may charge such fee as is necessary to cover the cost of the records search.

23 (2) For both license applications and requests for license renewals, the judge of the
24 probate court shall also direct the law enforcement agency to conduct a background check
25 using the Federal Bureau of Investigation's National Instant Criminal Background Check
26 System and return an appropriate report to the probate judge.

27 (3) When a person who is not a United States citizen applies for a license or renewal of
28 a license under this Code section, the judge of the probate court shall direct the law
29 enforcement agency to conduct a search of the records maintained by the United States
30 Bureau of Immigration and Customs Enforcement. As a condition to the issuance of a
31 license or the renewal of a license, an applicant who is in nonimmigrant status shall
32 provide proof of his or her qualifications for an exception to the federal firearm
33 prohibition pursuant to 18 U.S.C. Section 922(y).

34 (4) The law enforcement agency shall notify the judge of the probate court within 50
35 days, by telephone and in writing, of any findings relating to the applicant which may
36 bear on his or her eligibility for a license or renewal license under the terms of this Code

1 section. When no derogatory information is found on the applicant bearing on his or her
2 eligibility to obtain a license or renewal license, a report shall not be required. The law
3 enforcement agency shall return the application and the blank license form with the
4 fingerprint thereon directly to the judge of the probate court within such time period. Not
5 later than 60 days after the date of the application the judge of the probate court shall
6 issue the applicant a license or renewal license to carry any pistol or revolver if no facts
7 establishing ineligibility have been reported and if the judge determines the applicant has
8 met all the qualifications, is of good moral character, and has complied with all the
9 requirements contained in this Code section."

10 SECTION 2.

11 All laws and parts of laws in conflict with this Act are repealed.